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09/787,683	03/21/2001	John J. Daniels	JJD-032201	7574

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EXAMINER

LAYE, JADE O

ART UNIT PAPER NUMBER

2617

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/787,683

Applicant(s)

DANIELS, JOHN J.

Examiner

Jade O. Laye

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/21/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

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### *Response to Arguments*

- I. Applicant's arguments, filed 11/14/05, with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. Applicant's amended Claims have been entered and made of record.
- II. Applicant's argument with respect to the application of the *Margulis* reference is persuasive. The Examiner agrees the priority date of the present application predates that of the *Margulis* reference. Accordingly, **THIS ACTION IS MADE NON-FINAL.**
- III. The Objection of Claim 17 applied in the previous action is withdrawn.

### *Claim Objections*

- IV. Claim 17 is objected to because the phrase "...at least one remotely located devices to remotely control..." The Examiner assumes Applicant intends the phrase to read "...at least one remotely located devices and to remotely control..."

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

V. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by *Ellis et al.* (US Pat. Pub. No. 2005/0028208).

As to Claim 1, *Ellis* discloses a wireless display terminal for use with a multimedia network comprising a television distribution facility (i.e., transceiver node), both of which facilitate the bi-directional transmission of control, display, and audio/visual data. Moreover, the display terminal comprises a housing member and is capable of sending various control signals (i.e., request programs, alter features, etc.) to the distribution facility and vice versa. (Abstract, Pars. [0014-0017, 0068, 0077, 0092-0094, 0135, & 0170; Figs. 1-2d). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 1.

The limitations of Claim 8 are encompassed within those of Claim 1. Thus, it is analyzed and rejected as previously discussed.

As to Claim 2, *Ellis* further discloses the system can transmit graphical data. (Par. [0115]). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 2.

As to Claim 3, *Ellis* further teaches the wireless terminal device (i.e., remote terminal device) can be touch-sensitive. (Par. 0092)). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 3.

As to Claim 4, *Ellis* further discloses the wireless terminal device can comprise a trackball. (Par. [0092]). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 4.

As to Claim 5, *Ellis* further teaches the wireless terminal comprises a transceiver along with infrared or RF capabilities. (Pars. [0093 & 0094]). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 5.

As to Claim 6, *Ellis* further teaches the wireless distribution facility (i.e., node) can be hardwired to the program guide distribution equipment. (Par. [0068]). Furthermore, it is clear from the citations used under Claim 1, the distribution facility comprises a computer for communicating various control, display, and audiovisual data to the remote terminal. Accordingly, *Ellis et al* anticipate each and every limitation of Claim 6.

As to Claim 7, *Ellis* further teaches the distribution facility transmits audio and video signals to the communications device 27 (i.e., terminal side wireless transceiver). (citations of Claim 1). Accordingly, *Ellis et al* anticipate each and every limitation of Claim 7.

Claim 9 corresponds to Claim 7. Thus, it is analyzed and rejected as previously discussed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

VI. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport*. (US Pat. No. 6,104,334).

Claim 10 recites the system of Claim 1, further comprising device remote control signal generating means for generating remote control signals effective for controlling appliances receptive of such controls. As discussed above, *Ellis et al* anticipate each and every limitation of Claim 1, but fail to disclose those of Claim 10. However, within the same field of endeavor, *Allport* discloses a similar system which comprises a remote terminal capable of controlling various appliances. (Abstract; Col. 4, Ln. 28-39). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems

of *Ellis* and *Allport* to provide a remotely accessible multimedia system which allows for practical household use also.

VII. Claims 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport*. (US Pat. No. 6,567,984).

Claim 11 recites limitations which are too numerous to recite herein. However, each limitation will be addressed in turn. All limitations of Claim 11 are encompassed and/or are paralleled in Claim 1. However, Claim 11 adds limitations directed toward receiving a first and second wireless data signal, while said second data signal is received simultaneously with the first data signal, thereby producing a picture-in-picture display.

As addressed above, *Ellis et al* anticipate each and every limitation of Claim 1, but fail to disclose the use of a picture-in-picture display. However, within the same field of endeavor, *Allport* discloses a similar system which utilizes a picture-in-picture display (i.e., simultaneously displaying a first and second wireless data signal). (Col. 2, Ln. 67-Col. 3, Ln. 15). Although *Allport* may be interpreted as not disclosing two “receiving means,” such a system would be an obvious variant of the disclosed system. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant’s invention to combine the systems of *Ellis* and *Allport* in order to provide a hand-held viewing unit which allows for the viewing of multiple channels simultaneously.

Claims 12, 13, 14, and 15 correspond to Claims 3, 6, 7, and 10, respectively. Thus, each is analyzed and rejected as discussed therein.

The limitations of Claim 16 mirror those of Claim 11. However, Claim 16 also recites the use of digital data being displayed in a first portion of the display screen and analog data being displayed in the second portion. As discussed above, the combined systems of *Ellis* and *Allport* render obvious all limitations of Claim 11, and *Ellis* further teaches the use of both digital and analog data. (Par. [0069]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 16.

The limitations of Claim 17 are encompassed within those of Claim 1. Thus, it is analyzed and rejected as discussed therein.

As to Claim 18, *Ellis* further teaches the system can simultaneously display programming data (which could be analog or digital) and associated Internet data. (Par. [0067]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 18.

As to Claim 19, *Ellis* further discloses that the hand-held device has local storage. (Par. [0092]). Accordingly, the combined systems of *Ellis* and *Allport* disclose all limitations of Claim 19.

VIII. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis et al* in view of *Allport* as applied to Claim 16 above, and further in view of *Elkind*. (US Pat. No. 6,119,258).

Claim 20 recite the display device of Claim 16, further comprising limitations too numerous to recite herein. However, each limitation will be addressed in turn. As discussed above, the combined systems of *Ellis* and *Allport* render obvious all limitations of Claim 16, but fails to disclose those of Claim 20. However, within the same field of endeavor, *Elkind* teaches a video error/distortion checker to catch error in video signals. (Col. 1, Ln. 56-59). Although



*Elkind* teaches a detecting means for detecting poor video signal quality, *Elkind* does not expressly teach a retrieving means as recited in Claim 20. However, the Examiner takes Official Notice that, at the time of Applicant's invention, both the concept and advantage of buffering a video signal to replace corrupted frames with good frames was well known in this art. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined systems of *Ellis*, *Allport*, and *Elkind*, thereby providing more reliable picture quality.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. *Nelson* (US Pat. No. 5,710,605) discloses a remote control unit having a display.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye

Initials:     

Date: January 20, 2006.



VIVEK SRIVASTAVA  
PRIMARY EXAMINER